

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -
2008**

COMMITTEE STATEMENT

LB855

Hearing Date: January 29, 2008

Committee On: Banking, Commerce and Insurance

Introducer(s): (Banking, Commerce and Insurance Committee)

Title: Change group life insurance provisions

Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

Vote Results:

8 Yes Senators Carlson, Christensen, Gay, Hansen,
Langemeier, Pahls, Pankonin, Pirsch

0 No

0 Absent

0 Present, not voting

Proponents:
Senator Rich Pahls
Ann Frohman
Jim Hall
Janis McKenzie

Representing:
Introducer
NE Department of Insurance
American Council of Life Insurers
NE Insurance Federation

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or change:

LB 855
Section-by-Section Synopsis

GROUP LIFE INSURANCE DEFINITIONS

Section 1 would amend section 44-1601 to add two more groups to the list of groups that are permissible groups to which group life insurance may be issued. Section 1 would update incorporation by reference.

Section 2 would amend section 44-1602 to conform the standards for group life insurance sponsored by an employer to the National Association of Insurance Commissioners ("NAIC") Model Act. Section 2 would repeal the restriction on eligibility of directors and officers to participate in the group and would repeal the minimum number of lives that must be covered under an employer sponsored group life insurance plan. Section 2 would repeal the requirement that the amount of insurance must be based on a plan to preclude individual selection.

Section 3 would amend section 44-1603 to conform the standards for group life insurance sponsored by a creditor to the NAIC Model Act by expanding the entities that could sponsor coverage to a trust established by the creditor. Section 3 would repeal the minimum participation requirement for the plan and would revise the standards for the amount of coverage that could be offered. Section 3 would allow payment to be made to the creditor.

Section 4 would amend section 44-1604 to conform the standards for group life insurance sponsored by a labor union or similar organization to the NAIC Model Act. Section 4 would repeal the restriction on payment of the entire premium by the insured members and the requirement for the minimum number of lives that must be covered. Section 4 would repeal the requirement that the amount of insurance must be based on a plan to preclude individual selection.

Section 5 would amend section 44-1605 to conform the standards for group life insurance sponsored by a group of employers or labor unions, or similar organization to the NAIC Model Act. Section 5 would repeal the restriction on payment of the entire

premium by the insured members and the requirement for the minimum number of lives that must be covered. Section 5 would repeal the requirement that the amount of insurance must be based on a plan to preclude individual selection.

Section 6 would amend section 44-1606.01 to conform the standards for group life insurance sponsored by an association to the NAIC Model Act. Section 6 would set standards for such associations and would repeal the restriction on payment of the entire premium by the insured members and the requirement for the minimum number of lives that must be covered. Section 6 would repeal the requirement that the amount of insurance must be based on a plan to preclude individual selection.

Section 7 would adopt a new section to conform the standards for group life insurance sponsored by a credit union to the NAIC Model Act. Section 7 would set standards for such coverage and would specify eligibility for the coverage.

Section 8 would adopt a new section to conform the standards for group life insurance sponsored by a discretionary group, a group which does not meet the test for a group on other bases, to the NAIC Model Act. Section 8 would permit the Director of Insurance to recognize such groups that comply with the act. Section 8 would set standards for such coverage and would specify eligibility for the coverage. Section 8 would require notice to policyholders if compensation is paid to the organizers of the discretionary group.

Section 9 would amend section 44-1607 to specify that the group life insurer may assert a defense based on eligibility for coverage to the no-contest clause of the policy. Section 9 would conform the standards for the ability of insured members to convert group life insurance policies to individual life insurance policies and to continue policies in the event of disability to the NAIC Model Act.

Section 10 would amend section 44-1607.01 to conform the standards for group life insurance sponsored by an association to the NAIC Model Act by including the term "or similar employee organization" after "labor union".

Section 11 would amend section 44-1613 to remove a gender specific pronoun.

Section 12 would amend section 44-1614 to conform the standards for group life insurance coverage of a spouse or dependent to the National Association of Insurance Commissioners ("NAIC") Model Act. Section 12 would restrict the amount of coverage for a spouse or dependent to fifty percent of the coverage of the insured member.

Section 13 would provide repealers.

Explanation of amendments, if any:

The committee amendments (AM1832) would become the bill. The committee amendments contain the provisions of and any pending committee amendments to: LB 779, LB 853, LB 854, and LB 855, as follows:

1. The provisions of LB 779 (Pirsch) would amend section 44-7613 of the Multiple Employer Welfare Arrangement Act to streamline and clarify compliance requirements for MEWAs. (Section 51 of the committee amendments.)

2. The provisions of LB 853 (Banking, Commerce and Insurance Committee), introduced at the request of the Director of the Department of Insurance, would amend section 13-206 of the Community Development Assistance Act, sections 44-349 and 44-356 of the general statutes regarding insurance policies, section 44-789 of the sickness and accident insurance statutes, section 44-1521 of the Unfair Insurance Trade Practices Act, section 44-32,106 of the Health Maintenance Organization Act, sections 44-3901, 44-3902, 44-3904 of the insurance producer continuing education statutes, sections 44-3909 to 44-3911 of the insurance producer prelicensing education statutes, section 44-4064 of the Insurance Producers Licensing Act, section 44-4521 of the Long-Term Care Insurance Act, sections 44-6009 and 44-6016 of the Insurers and Health Organizations Risk-Based Capital Act, and section 44-7508.02 of the Property and Casualty Insurance Rate and Form Act to update and clarify provisions. The amendments would enact a new section to grant the Director of Insurance with authority to adopt and promulgate rules and regulations to establish standards under the Unfair Insurance Trade Practices Act to protect members of the United States Armed Forces from dishonest and predatory sales practices. The amendments would also enact a new section to grant the director with authority to adopt and promulgate rules and regulations allowing insurers to submit to the jurisdiction of the director for the purpose of financial conglomerate supervision. The committee amendments to LB 855 do not contain any sections introduced as part of LB 853 which propose amendments to the Viatical Settlements Act. (Sections 1, 3 to 7, 20 to 30, 49, and 50 of the committee amendments.)

3. The provisions of LB 854 (Banking, Commerce and Insurance Committee), introduced at the request of the Director of the Department of Insurance, would amend section 28-631 regarding criminal insurance fraud, sections 44-6603 and 44-6604 of the Insurance Fraud Act, and would enact 16 new sections to be known as the Discount Medical Plan Organization Act for the purpose of establishing standards for discount medical plan organizations to protect consumers from unfair or deceptive marketing, sales, and enrollment practices. The amendments would define a discount medical plan organization as an entity that, in exchange for fees, dues, or charges, provides access for discount medical plan members to providers of medical or ancillary services and the right to receive services at a discount. (Sections 2 and 31 to 48 of the committee amendments.)

4. The provisions of LB 855 (Banking, Commerce and Insurance Committee), introduced at the request of the Director of the Department of Insurance, would amend sections 44-1601 to 44-1607.01, 44-1613, 44-1614, and would enact two new sections in order to update and conform Nebraska's group life insurance statutes with the terms of National Association of Insurance Commissioners model act language. (Sections 8 to 19 of the committee amendments.)

The committee amendments would provide, section by section, as follows:

COMMUNITY DEVELOPMENT ASSISTANCE ACT RULEMAKING

Section 1 would amend section 13-206 of the Community Development Assistance Act to specify that rule and regulation authority of the Director of Insurance under the act is discretionary rather than mandatory. (Section 1 of LB 853.)

CRIMINAL INSURANCE FRAUD

Section 2 would amend section 28-631 to specify that willful operation of an unregistered discount medical plan organization or collection of fees without providing the promised benefits is a fraudulent insurance act. This section would specify that commission of such a fraudulent insurance act is a Class IV Felony. This section would amend the definition of “insurer” in section 28-631 to include “discount medical plan organizations.” (Section 1 of LB 854.)

DESCRIPTION OF INSURANCE POLICES

Section 3 would amend section 44-349 to limit the requirement that insurance policies contain a description of the structure of the insurer writing the policy to policies written by assessment insurers. (Section 2 of LB 853.)

FINES AND PENALTIES

Section 4 would amend section 44-356 to increase the penalties imposed for violation of sections 44-354 and 44-355 by making them unfair trade practices, thereby standardizing those penalties and procedures. This section would change the fine for violations of section 44-353 from a minimum of twenty dollars and a maximum of one hundred dollars to a fine not to exceed one hundred dollars. (Section 3 of LB 853.)

TEMPOROMANDIBULAR JOINT DISORDER COVERAGE

Section 5 would amend section 44-789 to clarify that the mandate for temporomandibular joint disorder only applies to temporomandibular joint disorder. A literal reading of the current statute could allow coverage for other related coverages to be limited to \$2500. (Section 4 of LB 853.)

UNFAIR INSURANCE TRADE PRACTICES

Section 6 would amend section 44-1521 of the Unfair Insurance Trade Practices Act to specify that new section 7 shall be included in the act. (Section 22 of LB 853.)

Section 7 would enact a new section granting the Director of Insurance rule and regulation authority to establish standards under the Unfair Insurance Trade Practices Act to protect members of the United States Armed Forces from dishonest and predatory insurance sales practices. (Section 23 of LB 853.)

GROUP LIFE INSURANCE

Section 8 would amend section 44-1601 to add two more groups to the list of groups that are permissible groups to which group life insurance may be issued. This section would update incorporation by reference. (Section 1 of LB 855 as introduced.)

Section 9 would amend section 44-1602 to conform the standards for group life insurance sponsored by an employer to the National Association of Insurance Commissioners ("NAIC") Model Act. This section would repeal the restriction on eligibility of directors and officers to participate in the group and would repeal the minimum number of lives that must be covered under an employer sponsored group life insurance plan. This section would repeal the requirement that the amount of insurance must be based on a plan to preclude individual selection. (Section 2 of LB 855 as introduced.)

Section 10 would amend section 44-1603 to conform the standards for group life insurance sponsored by a creditor to the NAIC Model Act by expanding the entities that could sponsor coverage to a trust established by the creditor. This section would repeal the minimum participation requirement for the plan and would revise the standards for the amount of coverage that could be offered. This section would allow payment to be made to the creditor. (Section 3 of LB 855 as introduced.)

Section 11 would amend section 44-1604 to conform the standards for group life insurance sponsored by a labor union or similar organization to the NAIC Model Act. This section would repeal the restriction on payment of the entire premium by the insured members and the requirement for the minimum number of lives that must be covered. This section would repeal the requirement that the amount of insurance must be based on a plan to preclude individual selection. (Section 4 of LB 855 as introduced.)

Section 12 would amend section 44-1605 to conform the standards for group life insurance sponsored by a group of employers or labor unions, or similar organization to the NAIC Model Act. This section would repeal the restriction on payment of the entire premium by the insured members and the requirement for the minimum number of lives that must be covered. This section would repeal the requirement that the amount of insurance must be based on a plan to preclude individual selection. (Section 5 of LB 855 as introduced.)

Section 13 would amend section 44-1606.01 to conform the standards for group life insurance sponsored by an association to the NAIC Model Act. This section would set standards for such associations and would repeal the restriction on payment of the entire premium by the insured members and the requirement for the minimum number of lives that must be covered. This section would repeal the requirement that the amount of insurance must be based on a plan to preclude individual selection. (Section 6 of LB 855 as introduced.)

Section 14 would enact a new section to conform the standards for group life insurance sponsored by a credit union to the NAIC Model Act. This section would set

standards for such coverage and would specify eligibility for the coverage. (Section 7 of LB 855 as introduced.)

Section 15 would enact a new section to conform the standards for group life insurance sponsored by a discretionary group, a group which does not meet the test for a group on other bases, to the NAIC Model Act. This section would permit the Director of Insurance to recognize such groups that comply with the act. This section would set standards for such coverage and would specify eligibility for the coverage. This section would require notice to policyholders if compensation is paid to the organizers of the discretionary group. (Section 8 of LB 855 as introduced.)

Section 16 would amend section 44-1607 to specify that the group life insurer may assert a defense based on eligibility for coverage to the no-contest clause of the policy. This section would conform the standards for the ability of insured members to convert group life insurance policies to individual life insurance policies and to continue policies in the event of disability to the NAIC Model Act. (Section 9 of LB 855 as introduced.)

Section 17 would amend section 44-1607.01 to conform the standards for group life insurance sponsored by an association to the NAIC Model Act by including the term "or similar employee organization" after "labor union". (Section 10 of LB 855 as introduced.)

Section 18 would amend section 44-1613 to remove a gender specific pronoun. (Section 11 of LB 855 as introduced.)

Section 19 would amend section 44-1614 to conform the standards for group life insurance coverage of a spouse or dependent to the National Association of Insurance Commissioners ("NAIC") Model Act. This section would restrict the amount of coverage for a spouse or dependent to fifty percent of the coverage of the insured member. (Section 12 of LB 855 as introduced.)

INSURANCE PRODUCER LICENSING

Section 20 would amend section 44-32,106 of the Health Maintenance Organization Act to specify that "health maintenance organization producer" means a person licensed as insurance producer qualified under the accident and health or sickness line of authority. (Section 24 of LB 853.)

Section 21 would amend section 44-3901 of the continuing education for insurance producers statutes to change references from insurance "agents" and insurance "brokers" to insurance "producers." (Section 25 of LB 853.)

Section 22 would amend section 44-3902 of the continuing education for insurance producers statutes to change references in the definition of "licensee" from insurance "agent" and insurance "broker" to "insurance producer." (Section 26 of LB 853.)

Section 23 would amend section 44-3904 of the continuing education for insurance producers statutes to specify that licensees shall complete twenty-one hours of approved continuing education in each two-year period after January 1, 2010. This section would allow an insurance producer to repeat a continuing education activity unless the repetition is within the same two-year licensing period. This section would repeal a fee for providing certificates of completion for continuing education. (Section 27 of LB 853.)

Section 24 would amend section 44-3909 of the prelicensing education for insurance producers statutes to specify that individuals seeking qualification under the life, accident and health or sickness, property, casualty, and personal lines property and casualty lines of authority shall complete fourteen hours of prelicensing education. (Section 28 of LB 853.)

Section 25 would amend section 44-3910 of the prelicensing education for insurance producers statutes to set forth designations which would allow applicants for licensure to be exempted from prelicensure education. This section would exempt from prelicensure education requirements those individuals who have a college degree with a concentration in insurance. (Section 29 of LB 853.)

Section 26 would amend section 44-3911 of the prelicensing education for insurance producers statutes to repeal a fee for filing certificates of completion for prelicensing education. (Section 30 of LB 853.)

Section 27 would amend section 44-4064 of the Insurance Producers Licensing Act to authorize the Director of Insurance to charge for a resident or nonresident insurance producer license a fee in an amount not to exceed \$100. This section would prohibit the director from pro-rating such fees or refunding fees in the event of a license denial, and would permit the director to issue refunds if fees are paid in error. (Section 31 of LB 853.)

LONG-TERM CARE

Section 28 would amend section 44-4521 of the Long-Term Care Insurance Act to revise the requirement for long-term care insurance producer licensing to specify that selling, soliciting, or negotiating long-term care insurance is not permitted after August 1, 2008, unless the insurance producer has completed the required training, rather than requiring that such training occur before August 1, 2008. (Section 32 of LB 853.)

RISK-BASED CAPITAL

Section 29 would amend section 44-6009 of the Insurers and Health Organizations Risk-Based Capital Act to specify that the standard for the trend test is the standard set out in the life risk-based capital instructions. (Section 33 of LB 853.)

Section 30 would amend section 44-6016 of the Insurers and Health Organizations Risk-Based Capital Act to adopt a trend test for the Director of Insurance to apply to the risk-based capital levels for property and casualty insurers. (Section 34 of LB 853.)

CIVIL INSURANCE FRAUD

Section 31 would amend section 44-6603 of the Insurance Fraud Act to amend the definition of “insurer” to include “discount medical plan organizations.” (Section 2 of LB 854.)

Section 32 would amend section 44-6604 of the Insurance Fraud Act to specify that willful operation of an unregistered discount medical plan organization or collection of fees without providing the promised benefits is a fraudulent insurance act. (Section 3 of LB 854.)

DISCOUNT MEDICAL PLAN ORGANIZATIONS

Section 33 would enact a new section to provide for a named act: Discount Medical Plan Organization Act. (Section 4 of LB 854.)

Section 34 would enact a new section to provide that the purposes of the act are to promote the public interest by establishing standards for discount medical plan organizations. (Section 5 of LB 854.)

Section 35 would enact a new section to provide definitions for “affiliate”, “ancillary services”, “control”, “director”, “discount medical plan” (a contract under which a person offers access to medical providers at a discounted price), “discount medical plan organization” (an entity that offers a discounted medical plan), “facility”, “health care professional”, “health carrier”, “marketer”, “medical services”, “member”, “person”, “provider”, and “provider network”. (Section 6 of LB 854.)

Section 36 would enact a new section to provide standards under which “control” is presumed to exist for purposes of the act. (Section 7 of LB 854.)

Section 37 would enact a new section to provide that the act applies to discount medical plan organizations doing business in or from this state. This section would specify circumstances under which a discount medical plan organization would not be required to register, and would specify that health care providers who offer discounts to their patients without a fee for such a discount are not required to register. (Section 8 of LB 854.)

Section 38 would enact a new section to require discount medical plan organizations to register with the Director of Insurance and would provide the process for application for and issuance of a registration for a discount medical plan organization. This section would set standards for the director to evaluate the application and would provide the process for approval or disapproval of the application. This section would allow the director to revoke or suspend a registration, impose an administrative penalty, or issue a cease and desist order for violations of

the act, and would provide the process for the revocation or suspension proceedings. This section would provide for annual renewal of the registration of a discount medical plan organization. This section would require discount medical plan organizations to give notice to the director of disciplinary proceedings in other states. (Section 9 of LB 854.)

Section 39 would enact a new section to provide that the Director of Insurance may examine the business affairs of a discount medical plan organization and standards for the examination. This section would provide for the process for the examination. This section would require a discount medical plan organization to pay the costs of examination. (Section 10 of LB 854.)

Section 40 would enact a new section to provide that a discount medical plan organization may charge a periodic charge as well as a reasonable one-time processing fee for its plan. This section would allow members to claim reimbursement if they cancel the membership within 30 days. (Section 11 of LB 854.)

Section 41 would enact a new section to require a discount medical plan organization to have a written agreement with health providers meeting the requirements set forth in the act and would set forth requirements for the agreement. This section would require the discount medical plan organization to maintain an internet site and toll-free telephone number listing providers under the plan. (Section 12 of LB 854.)

Section 42 would enact a new section to provide that a discount medical plan organization may contract with marketers. This section would require an agreement for marketing, and would set standards for the agreement. (Section 13 of LB 854.)

Section 43 would enact a new section to provide that all advertising materials of the discount medical plan organization shall be truthful and not misleading. This section would set standards for advertising material to not be misleading. This section would prohibit the use of words that would lead people to believe they are purchasing insurance. This section would require a discount medical plan organization to disclose information. This section would require that members receive plan documents. (Section 14 of LB 854.)

Section 44 would enact a new section to require a discount medical plan organization to notify the Director of Insurance of changes in contact information for the discount medical plan organization. (Section 15 of LB 854.)

Section 45 would enact a new section to provide that if such information is not provided at the time of renewal of the discount medical plan organization, the discount medical plan organization shall provide to the Director of Insurance an annual report of the discount medical plan organization's activities. This section would provide penalties for failure to provide such reports. (Section 16 of LB 854.)

Section 46 would enact a new section to provide that violations of the act are a violation of the Unfair Insurance Trade Practices Act and would provide for administrative penalties for violations of the act. (Section 17 of LB 854.)

Section 47 would enact a new section to provide cease and desist authority to the Director of Insurance. (Section 18 of LB 854.)

Section 48 would enact a new section to provide the Director of Insurance with rule and regulation authority to carry out the act. (Section 19 of LB 854.)

PROPERTY AND CASUALTY INSURANCE RATES AND FORMS

Section 49 would amend section 44-7508.02 of the Property and Casualty Insurance Rate and Form Act to specify that the Director of Insurance may disapprove an insurer's filing if the insurer fails to provide requested information. (Section 35 of LB 853.)

FINANCIAL CONGLOMERATES

Section 50 would grant the Director of Insurance authority to adopt rules and regulations allowing insurers to submit to the jurisdiction of the director for the purpose of financial conglomerate supervision, and would adopt standards for rule and regulation making by the director. (Section 36 of LB 853.)

MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

Section 5 would amend section 44-7613 of the Multiple Employer Welfare Arrangement (MEWA) Act to provide that: (1) A MEWA's annual financial statement shall be filed with the Director of Insurance "within ninety days after the last day of the fiscal year" of the MEWA and shall be attested to by "at least two members of the board of trustees, one of whom shall be the chairperson or president of the board of trustees," and not just attested to by the board; (2) a MEWA's annual statement from a qualified actuary regarding sufficiency to pay claims and expenses shall be obtained and given to the director "within ninety days after the last day of the fiscal year" of the MEWA; and (3) each MEWA shall file with the director an annual certificate of compliance within ninety days after the last day of the fiscal year of the MEWA signed by at least two members of the board of trustees, one of whom shall be the chairperson or president of the board of trustees. (Section 1 of LB 779.)

MISCELLANEOUS PROVISIONS

Section 52 would provide that section 5 becomes operative on January 1, 2009.

Sections 53 and 54 would provide for repealers.

Senator Rich Pahls, Chairperson